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8 **UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**  
10 **ROBERT T. MATSUI FEDERAL COURTHOUSE**

11 CALIFORNIA SPORTFISHING  
PROTECTION ALLIANCE,

12 Plaintiff,

13 v.

14 KATHLEEN ALLISON, in her official  
15 capacity as Secretary of the  
California Department of  
16 Corrections and Rehabilitation

17 Defendant

18 COUNTY OF AMADOR, a public agency  
19 of the State of California

20 Plaintiff,

21 v.

22 KATHLEEN ALLISON in her official  
capacity as Secretary of the  
23 California Department of  
Corrections and Rehabilitation;  
24 PATRICK COVELLO in his official  
capacity of Warden of California  
25 Department of Corrections and  
Rehabilitation Mule Creek State  
26 Prison,

27 Defendants  
28

Case No.: 2:20-cv-02482-WBS-AC

**ERICA A. MAHARG'S DECLARATION IN  
SUPPORT OF CALIFORNIA  
SPORTFISHING PROTECTION  
ALLIANCE'S OPPOSITION TO  
DEFENDANTS' MOTION FOR SUMMARY  
JUDGMENT**

Judge: Hon. William B. Shubb

Date: October 17, 2022

Time: 1:30 p.m.

Courtroom: 5

Action Filed: Jan. 7, 2021

Trial Date: April 18, 2023

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2 ERICA MAHARG (Bar No. 279396)  
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6 Attorneys for Plaintiff  
CALIFORNIA SPORTFISHING PROTECTION  
7 ALLIANCE  
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1 I, Erica A. Maharg, declare as follows:

2 1. I am an attorney, licensed to practice law in all courts  
3 of the State of California. My firm and I serve as outside counsel  
4 for Plaintiff California Sportfishing Protection Alliance (CSPA).  
5 I have personal knowledge of the facts in this Declaration and, if  
6 asked, could and would testify to the accuracy of these facts in a  
7 court of law.

8 2. Attached as **Exhibit 1** to this Declaration, is a true and  
9 correct copy of the *Declaration of Karen Ashby in Support of*  
10 *Plaintiff's Motion for Summary Adjudication* filed on June 28,  
11 2022 (Docket No. 45-4).

12 3. Attached as **Exhibit 2** to this Declaration is a true and  
13 correct copy of relevant excerpts of the August 19, 2022 deposition  
14 transcript of Paul A. Orta.

15 4. Attached as **Exhibit 3** to this Declaration is a true and  
16 correct copy of relevant excerpts of the August 16, 2022 deposition  
17 of transcript of Gregor Larabee.

18 5. Attached as **Exhibit 4** to this Declaration is a true and  
19 correct copy of the Inspection Report for an inspection of Mule  
20 Creek State Prison conducted by the U.S. Environmental Protection  
21 Agency on November 19, 2020. Defendants produced Exhibit 4 during  
22 discovery in this matter, and it is digitally signed by Grant  
23 Scavello, the author of the Inspection Report.

24 6. Attached as **Exhibit 5** to this Declaration is a true and  
25 correct copy of the Regional Board's February 14, 2018 *Water Code*  
26 *Section 13267 Order (ORDER) for Technical and Monitoring Reports*  
27 *and Notice of Violation for Illegal Discharge to Surface Water and*  
28

1 *Non-Compliance with the Construction Storm Water Permit, California*  
2 *Department of Corrections-Mule Creek State Prison, Amador County*  
3 *correspondence. CSPA received this document from the Central Valley*  
4 *Regional Water Quality Control Board ("Regional Board") pursuant to*  
5 *a California Public Records Act request.*

6 7. Attached as **Exhibit 6** to this Declaration is a true and  
7 correct copy of the Regional Board's August 6, 2020 *Water Code 13383*  
8 *Order to Monitor Discharges to Surface Water; California Department*  
9 *of Corrections, WDID#:5S03M2000307, Amador County* correspondence is  
10 attached.

11 8. Attached as **Exhibit 7** to this Declaration, is a true and  
12 correct copy of the Regional Board's December 22, 2020 *Water Code*  
13 *Section 13383 Order to Monitor Discharges to Surface Water;*  
14 *California Department of Corrections and Rehabilitation-Mule Creek*  
15 *State Prison; WDID#:5S03M2000307* correspondence. Defendants  
16 produced this document during discovery in this matter.

17 9. Attached as **Exhibit 8** to this Declaration, is a true and  
18 correct copy of a Notice of Discharge to the Regional Board dated  
19 January 26, 2021. I downloaded this document from the California  
20 Stormwater Multiple Application and Report Tracking System  
21 (SMARTS), a platform operated by the California State Water  
22 Resources Control Board, where the State and regional board and  
23 dischargers upload data related to compliance with stormwater  
24 general permits, including the Small MS4 Permit. The public user  
25 menu is available at:  
26 <https://smarts.waterboards.ca.gov/smarts/faces/SwSmartsLogin.xhtml>

1 1. I searched based on the Facility's WDID (5S03M2000307), which is  
2 a unique identification number assigned to each permittee.

3 10. Attached as **Exhibit 9** is a true and correct copy of a  
4 Notice of Discharge to the Regional Board dated February 3, 2021.  
5 I downloaded this document from SMARTS, as described in Paragraph  
6 9.

7 11. Attached as **Exhibit 10** is a true and correct copy of a  
8 Notice of Discharge to the Regional Board dated March 6, 2021 is  
9 attached. I downloaded this document from SMARTS, as described in  
10 Paragraph 9.

11 12. Attached as **Exhibit 11** is a true and correct copy of a  
12 Notice of Discharge to the Regional Board dated March 11, 2021 is  
13 attached. I downloaded this document from SMARTS, as described in  
14 Paragraph 9.

15 13. Attached as **Exhibit 12** is a true and correct copy of a  
16 Notice of Discharge to the Regional Board dated March 19, 2021 is  
17 attached. I downloaded this document from SMARTS, as described in  
18 Paragraph 9.

19 14. Attached as **Exhibit 13** is a true and correct copy of a  
20 Notice of Discharge to the Regional Board dated October 25, 2021 is  
21 attached. I downloaded this document from SMARTS, as described in  
22 Paragraph 9.

23 15. Attached as **Exhibit 14** is a true and correct copy of a  
24 Notice of Discharge to the Regional Board dated November 9, 2021 is  
25 attached. I downloaded this document from SMARTS, as described in  
26 Paragraph 9.

1           16. Attached as **Exhibit 15** is a true and correct copy of a  
2 Notice of Discharge to the Regional Board dated December 9, 2021 is  
3 attached. I downloaded this document from SMARTS, as described in  
4 Paragraph 9.

5           17. Attached as **Exhibit 16** is a true and correct copy of a  
6 Notice of Discharge to the Regional Board dated March 16, 2022 is  
7 attached. I downloaded this document from SMARTS, as described in  
8 Paragraph 9.

9           18. Attached as **Exhibit 17** is a true and correct copy of a  
10 Notice of Discharge to the Regional Board dated March 22, 2022 is  
11 attached. I downloaded this document from SMARTS, as described in  
12 Paragraph 9.

13           19. Attached as **Exhibit 18** is a true and correct copy of a  
14 Notice of Discharge to the Regional Board dated April 11, 2022 is  
15 attached. I downloaded this document from SMARTS, as described in  
16 Paragraph 9.

17           20. Attached as **Exhibit 19** is a true and correct copy of a  
18 Notice of Discharge to the Regional Board dated September 20, 2022  
19 is attached. I downloaded this document from SMARTS, as described  
20 in Paragraph 9.

21           21. Attached as **Exhibit 20** is a true and correct copy of a  
22 Notice of Discharge to the Regional Board dated November 2, 2022 is  
23 attached. I downloaded this document from SMARTS, as described in  
24 Paragraph 9.

25           22. Attached as **Exhibit 21** is a true and correct copy of the  
26 *Clarification to the Comment Letter Dated 11 February 2022;*  
27 *California Department of Corrections and Rehabilitation-Mule Creek*  
28

1 *State Prison; WDID#5S03M2000307, Amador County* correspondence, from  
2 *Elizabeth Lee, Regional Board. I downloaded this document from*  
3 *SMARTS, as described in Paragraph 9.*

4       23. Attached as **Exhibit 22** is a true and correct copy of the  
5 *Regional Board's December 7, 2020 Review of Revised Storm Water*  
6 *Investigation Findings Report, California Department of Corrections*  
7 *and Rehabilitations, Mule Creek State Prison, Amador County.*  
8 Defendants produced this document during discovery in this matter.

9       24. Attached as **Exhibit 23** is a true and correct copy of the  
10 *Mule Creek State Prison's February 1, 2021 Mule Creek State*  
11 *Prison (MCSP) Non-Stormwater Discharge Report; California Department*  
12 *of Corrections and Rehabilitation-Mule Creek State Prison,*  
13 *WDID#:5S03M2000307, Amador County.* Defendants produced this  
14 document during discovery in this matter.

15       25. Attached as **Exhibit 24** is a true and correct copy of the  
16 *Regional Board's June 29, 2021 Comments to the Non-Storm Water*  
17 *Discharge Report; California Department of Corrections and*  
18 *Rehabilitation - Mule Creek State Prison, WDID#:5S03M2000307,*  
19 *Amador County.* Defendants produced this document during discovery  
20 in this matter.

21       26. Attached as **Exhibit 25** is a true and correct copy of  
22 *Appendix 10 of SHN Engineers & Geologists, Revised Stormwater*  
23 *Collection System Investigation Report of Findings, August 2018,*  
24 *revised October 2019.* Defendants produced this document during  
25 discovery in this matter.

26       27. Attached as **Exhibit 26** is a true and correct copy of  
27 *Appendix 23 SHN Engineers & Geologists, Revised Stormwater*  
28

1 *Collection System Investigation Report of Findings*, August 2018,  
2 revised October 2019. Defendants produced this document during  
3 discovery in this matter.

4 28. Attached as **Exhibit 27** is a true and correct copy of  
5 relevant excerpts of the Second Quarter August 1, 2022 Report. I  
6 downloaded this document from SMARTS, as described in Paragraph 9.

7 29. Attached as **Exhibit 28** is a true and correct copy of  
8 relevant excerpts of the *Stormwater Master Plan Mule Creek State*  
9 *Prison*, March 7, 2018. Defendants produced this document during  
10 discovery in this matter.

11 30. Attached as **Exhibit 29** is a true and correct copy of the  
12 August 1, 2022 *Expert Opinion Report of Robert W. Emerick, Ph.D.,*  
13 *P.E.* CSPA produced this report to Defendants, as required by the  
14 Scheduling Order in this matter.

15 31. Attached as **Exhibit 30** is a true and correct copy of  
16 relevant excerpts of the September 30, 2022 deposition transcript  
17 of Dr. Robert Emerick.

18 32. Attached as **Exhibit 31** is a true and correct copy of the  
19 Regional Board's September 23 2020 *Notice of Violation for Sanitary*  
20 *Sewer Overflows, California Department of Corrections-Mule Creek*  
21 *State Prison, Amador County*. This document was produced by the  
22 County in discovery in this matter.

23 33. Attached as **Exhibit 32** is a true and correct copy of  
24 relevant excerpts of the September 16, 2022 deposition transcript  
25 of Kenneth William Croyle.

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1 I swear under penalty of perjury under the laws of the State  
2 of California and the United States that the foregoing is true and  
3 correct. This declaration was executed on December 12, 2022 in  
4 Flagstaff, Arizona.

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7 Erica A. Maharg  
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